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I. PURPOSE

This directive establishes the system for preventing and reporting abuse, neglect, or exploitation of people receiving services and supports from the South Carolina Department of Disabilities and Special Needs (DDSN) or from service providers under contract with DDSN.

This directive sets forth the reporting requirements of state law and also identifies DDSN and its contract provider agencies' legal responsibility for reporting abuse, neglect, or exploitation. The directive also identifies the appropriate state investigative agencies with statutory authority to receive and investigate reports of suspected abuse, neglect, or exploitation and identifies the administrative and management functions of DDSN and its network of contracted service providers.

The directive shall apply to all employees, volunteers, caregivers and other persons responsible for the welfare of any person receiving services and supports from DDSN or one of its contracted service providers.

II. POLICY

People with disabilities and special needs have a right to be treated with dignity and respect and to receive services and supports in an environment that is safe and free of abuse, neglect, or exploitation. Abuse, neglect, or exploitation, as defined by this policy, is strictly prohibited.

Employees and volunteers of DDSN and its network of contracted service providers are all mandated reporters and are required to report any suspected abuse, neglect, or exploitation in accordance with agency policy and state law. Failure to report may constitute abuse and may result in termination of employment and prosecution.

Employees who abuse, neglect, or exploit any person receiving services/supports will be terminated and subject to prosecution. An employee terminated for abuse, neglect, or exploitation will not be eligible for employment in any program, facility, service, or supports operated by DDSN or its contract service providers. Likewise, if under an administrative or management review, the employee has been found to violate Written Rules, Regulations or Policies, employee disciplinary action will be taken.

To ensure that people receiving services/supports are assured of equal protection and a uniform system of reporting suspected abuse, neglect, or exploitation, DDSN and its network of providers shall develop written policies and procedures consistent with this policy and in accordance with state law.

III. ABUSE PREVENTION

Quality Assurance

As part of an effective system of quality assurance, each DDSN operated service and support, Regional Center, and contracted service provider shall establish and implement an abuse prevention program. The prevention program should be proactive in developing a system of identifying at-risk situations, preventive actions, analyzing incident trends and taking appropriate steps to address any negative trends, employee training and assistance, and corrective actions that lead to abuse prevention. An abuse prevention program shall include but is not limited to:

A. Employee Training

All employees, volunteers, and caregivers shall receive training in their legal responsibilities to report suspected abuse, neglect, or exploitation and prevention of abuse. Training shall be provided as a part of new employee orientation and at least annually thereafter. Each employee shall sign an annual statement that they have reviewed the reporting procedures and abuse prevention approaches (Attachment H) – Acknowledgement of Training on Preventing and Reporting Abuse, Neglect, or Exploitation.

B. Employee Assistance

Resources will be made available for employees to seek assistance for themselves or co-workers who may exhibit potential problems or risk indicators for committing abuse, neglect, or exploitation. DDSN operated services and supports, Regional Centers, and contract provider agencies will designate a staff person for employees to talk to about preventing and reporting abuse, neglect, or exploitation.

C. Identification of Risk Situations

Procedures to identify situations or people that may be at risk for abuse, neglect, or exploitation should be a part of any provider's quality management system. Increased monitorship, prevention strategies, and resources must be developed to address these situations.

D. Consumer Training

Training for people receiving services/supports in reporting abuse, neglect or exploitation and how to recognize and avoid dangerous situations must be provided.

E. Positive Behavior Support

Positive behavior support recognizes that consumers with disabilities exhibit problem behavior because it serves a useful purpose for them in their current situation. Therefore the focus of behavioral supports must begin with understanding the structure and function of the problem behavior in order to teach and promote effective alternatives and not just to eliminate the undesirable behavior. It is the philosophy of

DDSN that during the development of Behavior Support Plans, people receiving services/support will be free from any serious and immediate threat to physical and psychological health and safety. It is also important to note that procedures used to ensure safety are not misunderstood and/or substitute for procedures to provide positive behavioral supports.

F. Administrative and Management Reviews

The review of incidents/allegations of abuse, neglect, or exploitation will be used as a management tool to assist in identifying preventive and corrective actions that may lead to prevention of abuse, neglect, or exploitation, but also to determine if an employee's conduct toward a consumer was improper.

G. Abuse Prevention Coordinator

As a part of quality assurance, the Facility Administer/Executive Director/CEO may designate a staff person to serve as the abuse prevention coordinator. This person would have responsibility for ensuring that corrective/preventive actions are taken to prevent a recurrence of a similar incident, identify at-risk situations, and develop initiatives and employee training on abuse prevention.

IV. STATE LAWS

South Carolina state law requires the reporting of any suspected abuse, neglect, or exploitation. **The Child Protection Reform Act** requires the reporting of any suspected abuse or neglect occurring to a child, age 17 and under. **The Omnibus Adult Protection Act** requires the reporting of suspected abuse, neglect, or exploitation of a vulnerable adult, age 18 and above.

Vulnerable Adult is defined as any person, age 18 and above, who has a physical or mental condition that substantially impairs the person from adequately providing for his/her own care or protection. A resident of a facility or a person, age 18 and above receiving services from DDSN or its contract provider agencies is a vulnerable adult.

The appropriate reporting agency is determined by the age of the victim, suspected perpetrator, and the location of the alleged incident (Attachment A - Reporting Allegations of Abuse, Neglect, or Exploitation).

A. Child Protection Reform Act – Age 17 and Under

1. Definitions

Section 20-7-490 (2006), et seq., Child Protection Reform Act

- **Child abuse or neglect or harm** occurs when the parent, guardian, or other person responsible for the child's welfare:
 - (a) inflicts or allows to be inflicted upon the child physical or mental injury or engages in acts or omissions which present a substantial risk of physical or mental injury to

- the child, including injuries sustained as a result of excessive corporal punishment, but excluding corporal punishment or physical discipline which:
- (i) is administered by apparent or person in loco parentis;
 - (ii) is perpetrated for the sole purpose of restraining or correcting the child;
 - (iii) is reasonable in manner and moderate in degree;
 - (iv) has not brought about permanent or lasting damage to the child; and
 - (v) is not reckless or grossly negligent behavior by the parents.
- (b) commits or allows to be committed against the child a sexual offense as defined by the laws of this State or engages in acts or omissions that present a substantial risk that a sexual offense as defined in the laws of this State would be committed against the child;
- (c) fails to supply the child with adequate food, clothing, shelter, supervision appropriate to the child's age and development, or health care though financially able to do so or offered financial or other reasonable means to do so and the failure to do so has caused or presents a substantial risk of causing physical or mental injury. However, a child's absences from school may not be considered abuse or neglect unless the school has made efforts to bring about the child's attendance, and those efforts were unsuccessful because of the parents' refusal to cooperate. For the purpose of this chapter "adequate health care" includes any medical or non-medical remedial healthcare permitted or authorized under state law;
- (d) abandons the child;
- (e) encourages, condones, or approves the commission of delinquent acts by the child and the commission of the acts are shown to be the result of the encouragement, condonation, or approval; or
- (f) has committed abuse or neglect as described in subsections (a) through (e) such that a child who subsequently becomes part of the person's household is at substantial risk of one of those forms of abuse or neglect.
- **Physical injury** means death or permanent or temporary disfigurement or impairment of any bodily organ or function.
 - **Mental injury** means an injury to the intellectual, emotional, or psychological capacity or functioning of a child as evidenced by a discernible and substantial impairment of the child's ability to function when the existence of that impairment is supported by the opinion of a mental health professional or medical professional.
 - **Institutional child abuse and neglect** means situations of known or suspected child abuse or neglect where the person responsible for the child's welfare is the employee of a public or private residential home, institution, or agency.

2. Penalties for not reporting

Any person required to report child abuse or neglect or any other person required to forward a report who knowingly fails to do so, or any person who threatens or intimidates the victim or any witnesses shall be subject to prosecution. Upon conviction, the person is guilty of a misdemeanor and shall be fined not more than twenty five hundred dollars or imprisoned for not more than six months, or both.

3. Penalties if found guilty of abuse, neglect or exploitation

A person who abuses a child is guilty of a felony and upon conviction can be imprisoned for up to ten years. Cruelty to a child is a misdemeanor with up to 30 days imprisonment and a fine up to \$200.00.

4. Negligence

The state Attorney General's Office, upon referral, may bring an action for negligence against a person, corporation, or other business entity if, through pattern or practice, the entity fails to exercise reasonable care in hiring, training, or supervising staff, or in operating a facility or services and this failure results in the commission of abuse, neglect, or exploitation. This is a civil action in Circuit Court and may result in a fine or other relief the Court feels is needed.

B. Omnibus Adult Protection Act – Age 18 and Above

1. Definitions

S.C. Code Ann. Section 43-35-5 (2006), et seq., Section 43-35-10

- **Physical abuse** means intentionally inflicting or allowing to be inflicted physical injury on a vulnerable adult by an act or failure to act. Physical abuse includes, but is not limited to, slapping, hitting, kicking, biting, choking, pinching, burning, actual or attempted sexual battery, use of medication outside the standards of reasonable medical practice for the purpose of controlling behavior, and unreasonable confinement. Physical abuse also includes the use of a restrictive or physically intrusive procedure to control behavior for the purpose of punishment except that a therapeutic procedure prescribed by a licensed physician or other qualified professional or that is part of a written plan of care by a licensed physician or other qualified professional is not considered physical abuse. Physical abuse does not include altercations or acts of assault between vulnerable adults.
- **Psychological abuse** means deliberately subjecting a vulnerable adult to threats or harassment or other forms of intimidating behavior causing fear, humiliation, degradation, agitation, confusion, or other forms of serious emotional distress.
- **Neglect** means the failure or omission of a caregiver to provide the care, goods, or services necessary to maintain the health or safety of a vulnerable adult including, but not limited to, food, clothing, medicine, shelter, supervision, and medical

services. Neglect may be repeated conduct or a single incident which has produced or can be proven to result in serious physical or psychological harm or substantial risk of death. Noncompliance with regulatory standards alone does not constitute neglect. Neglect includes the inability of a vulnerable adult, in the absence of a caretaker, to provide for his or her own health or safety which produces or could reasonably be expected to produce serious physical or psychological harm or substantial risk of death.

- **Exploitation** means

- (a) causing or requiring a vulnerable adult to engage in activity or labor which is improper, unlawful, or against the reasonable and rational wishes of the vulnerable adult. Exploitation does not include requiring a vulnerable adult to participate in an activity or labor which is a part of a written plan of care or which is prescribed or authorized by a licensed physician attending the patient;
- (b) an improper, unlawful, or unauthorized use of the funds, assets, property, power of attorney, guardianship, or conservatorship of a vulnerable adult by a person for the profit or advantage of that person or another person; or
- (c) causing a vulnerable adult to purchase goods or services for the profit or advantage of the seller or another person through: (i) undue influence, (ii) harassment, (iii) duress, (iv) force, (v) coercion, or (vi) swindling by overreaching, cheating, or defrauding the vulnerable adult through cunning arts or devices that delude the vulnerable adult and cause them to lose money or other property.

2. Penalties for not reporting

Any person required to report abuse or neglect of a vulnerable adult or any other person required to forward a report, who knowingly fails to do so, or any person who threatens or intimidates the victim or any witnesses shall be subject to prosecution. Upon conviction, the person is guilty of a misdemeanor and shall be fined not more than twenty five hundred dollars and imprisoned for up to one year.

3. Penalties if found guilty of abuse, neglect or exploitation

A person who knowingly and willfully abuses, neglects, or exploits a vulnerable adult is guilty of a felony and upon conviction will receive the following:

- (a) Simple Abuse (no serious injury): Punishment: Up to 5 years
- (b) Abuse great bodily injury: Punishment: Up to 15 years
- (c) Abuse resulting in death: Punishment: Up to 30 years
- (d) Neglect: Punishment depends on seriousness of injury

- (e) Exploitation: Punishment: Up to 5 years and a fine up to \$5,000 plus restitution

4. Negligence

The State Attorney General's Office, upon referral, may bring an action for negligence against a person, corporation, or other business entity if, through pattern or practice, the entity fails to exercise reasonable care in hiring, training, or supervising staff, or in operating a facility or services and this failure results in the commission of abuse, neglect, or exploitation. This is a civil action in Circuit Court and may result in a fine or other relief the Court feels is needed.

5. Posting Notices under Omnibus Adult Protection Act (OAPA)

All programs operated or contracted for operation by DDSN shall prominently display notices stating the duties of its personnel and contact information, the text of which must be provided by the Long Term Care Ombudsman Program in consultation with State Law Enforcement Division (SLED) Vulnerable Adults Investigations Unit.

V. REPORTING REQUIREMENTS & PROCEDURES

A. Children Age 17 and Under

1. STEP ONE – Make a Direct Report to the Appropriate State Investigative Authority (Attachment A)

Employees and volunteers of DDSN or its contracted service providers are required to report directly to the appropriate state investigative agency, immediately but no later than 24 hours, except as noted below when they have reason to believe that a child has been or is at risk for abuse, neglect, or exploitation.

If anyone other than an employee or volunteer of DDSN or its contracted service providers makes a direct report to the appropriate state investigative agency the Facility Administrator/Executive Director/CEO or higher authority, once notified, must immediately initiate activities beginning at STEP 3. The alleged perpetrator must immediately be placed on administrative leave without pay and the initial report must be sent to DDSN, Director of Quality Management within 24 hours or the next business day.

NOTE: In cases of an emergency, serious injury, or suspected sexual assault, the victim's health and welfare takes priority to STEP ONE. If medical attention is needed, the reporter must call 911 prior to calling law enforcement or DSS. Serious is defined as "needing immediate medical attention or hospitalization." Once 911 is contacted, the person making the report must contact law enforcement or DSS immediately.

Serious consumer injuries of unknown or unexplainable origin must be reported to the appropriate state investigative agency according to the procedures outlined herein.

- **State DSS Out of Home Abuse and Neglect Investigation Unit (OHAN)**

State DSS has established an Out of Home Abuse and Neglect Investigation Unit (OHAN) to investigate all out of home allegations of abuse and neglect of children. This includes alleged abuse or neglect occurring to a child in facilities operated by or contracted for operation by DDSN to include Regional Centers, ICF/MR and Community Training Homes I and II. In these facilities staff are required to report immediately but no later than the end of the reporter's shift.

- **DSS-Child Protective Service-County Offices**

When the suspected abuse or neglect of a child occurs in any location other than those defined above, a report must be made to county DSS immediately but no later than 24 hours. Reports of suspected abuse in locations other than those defined above are not required to be reported to DDSN. The report and final outcome must be documented in the vulnerable child's and appropriate agency files.

- **Local Law Enforcement**

In addition to notifying the investigative agency above, local law enforcement must be contacted immediately if any of the following condition(s) exist:

- (a) All sexual assaults between consumers and staff, volunteers, or other persons responsible for their care.
- (b) There is serious physical injury (such as fractures, burns, serious lacerations, death, etc.) and there is reason to believe the injury was caused by possible abuse or neglect, or when a physician documents that the injury was due to abuse or neglect.
- (c) There are multiple victims.
- (d) Abuse or neglect was inflicted on a child by a person who is not a parent or a childcare worker.
- (e) Serious abuse, neglect, or exploitation occurred and there is a cover up or failure to report when clearly an obligation existed to report.
- (f) Intimidation of the victim or witness, or impediment to an investigation.
- (g) Time sensitive evidence.
- (h) When the victim or victim's family requests a referral to law enforcement.

2. STEP TWO – REPORT TO SUPERVISOR OR HIGHER AUTHORITY

After the report to the appropriate investigative agency is made, the employee is obligated to report the suspected abuse, neglect, or exploitation to his/her supervisor or the Facility Administrator/ Executive Director/ CEO immediately following the report to the appropriate state investigative agency. Immediately means within one hour. The person making the report must assure the alleged victim is safe.

3. STEP THREE – INITIAL RESPONSE

Once the supervisor, Facility Administrator/Executive Director/CEO or higher authority is notified, the following actions must be initiated when the allegation of abuse occurs in a residential or other facility operated or contracted for operation by DDSN:

Initial Response is the initial brief immediate action taken by the first response person who is called to the scene of the alleged abuse, neglect, or exploitation and should be conducted concurrently with reporting requirements. Because of the seriousness of any allegation of abuse, neglect, or exploitation, the first response person is usually a supervisory/administrative level staff person. This decision is made by the supervisor in STEP 2.

The focus of the initial response is to ensure: (1) the victim is safe (2) needed medical treatment is sought, (3) evidence is preserved and (4) the victim, witnesses, and alleged perpetrator(s) are identified.

(a) Safety Plan

Ensure the victim is safe, free from harm and intimidation.

- i. An assessment should be made as to the safety of the victim and others who may be at risk.
- ii. The alleged perpetrator must be separated from the victim.
- iii. The alleged perpetrator must be placed on administrative leave without pay pending the outcome of the investigation.

(b) Determine if alleged victim requires medical assistance

- i. The alleged victim should be taken/referred for a medical exam if needed.

(c) Secure the scene-Preserve Evidence

- i. The scene should be secured if there is physical evidence of a disturbance or crime, e.g., overturned chairs, blood on floor, evidence of sexual assaults, etc.

For Administrative Review purposes only, the Receipt for Property (Attachment G) should be completed.

(d) Identify Victim, Witnesses, and Perpetrator

- i. Identify victim, alleged perpetrator and all potential witnesses. It is essential to identify all potential witnesses, including people receiving services, employees, volunteers, or others who may have information.

4. STEP FOUR – NOTIFICATION

The parent/guardian or primary correspondent will be notified of the allegation of abuse as soon as possible (i.e. as soon as the provider agency can assure the alleged victim's health and safety) based on the contact information in the child's plan. The parent/guardian or primary correspondent will be informed of any injuries as well as action taken to ensure the consumer's safety. There may be situations in which family members of other residents may need to be contacted regarding concern for their own family member's status and safety. The circumstances requiring contact would be specified in the annual service plan.

The parent/guardian or primary correspondent will be informed of their right to contact the state investigative agency if they have any questions or concerns.

Note: The state investigative agency may also contact the alleged victim's parent/guardian or primary correspondent directly.

5. STEP FIVE – INITIAL WRITTEN REPORT

A written report of the allegation must be sent to DDSN, Director of Quality Management within 24 hours or the next business day in which the suspected abuse, neglect or exploitation is discovered using the Initial Report of Alleged Abuse, Neglect or Exploitation (Attachment B).

6. STEP SIX – INITIATE A REVIEW OF THE ALLEGATION

Regional Centers, DSN Boards and contracted service providers shall cooperate with external investigations to insure the administrative/management review as described below does not jeopardize the investigation by law enforcement or the state investigative agency.

A. Application of Review

An Administrative or Management Review should be done when the following conditions apply:

- **Administrative Review-** An ICF/MR (Community or Regional Center) resident is allegedly abused, including when resident is at a day program.
- **Management Review-** (1) An alleged abuse occurs while a child resides in any other home operated or contracted for operation by DDSN or (2) an alleged abuse occurs while a child is under the supervision of an agency employee or contracted employee, to include respite services, rehabilitation supports, companion, etc.

While conducting an Administrative or Management Review, system-oriented information that warrants further review may be received. The recommendation for such review along with recommendation for personnel action (e.g., staff training, reassignments, environmental modifications, procedural changes, etc.) and other recommendations should be noted.

Any risk situations should be identified and appropriate action taken. If negligent situations are identified through the review process, this should be brought to the immediate attention of the Facility Administrator/ Executive Director/ CEO or their designee for prompt corrective/preventive action.

B. Types of Reviews

- (i). **Administrative Review** - Regional Centers and ICF/MR providers will conduct an administrative review immediately upon receiving an allegation of abuse, neglect, or exploitation (Attachment C).

For non ICF/MR facilities/consumers the provider is permitted to conduct an Administrative Review for Improper Conduct Toward a Consumer (Attachment D) if the state investigative agency (i.e. DSS-CPS) does not notify the provider of their acceptance or otherwise of the initial report of an allegation. Once the review is complete providers may take appropriate personnel action as policies dictate, including bringing the employee back to work if the review did not indicate improper conduct.

(a) Purpose

The administrative review is the systematic review of all information, witness statements, and evidence related to the allegation in order to make a determination, based on facts, if a) an employee has violated a written rule, regulation or policy and related to improper conduct toward a consumer and b) what actions management might take in order to reduce the likelihood that abuse would occur in the future. This administrative review will be completed by a person assigned by the Facility Administrator/ Executive Director/ CEO. The assigned staff member will determine if an employee has violated any written rule, regulation or policy related to improper conduct toward consumer. When the credible, relevant facts support violation of the provider's written rules, regulations or policies related to improper conduct toward a consumer the provider will follow its personnel policy of disciplinary action.

The administrative review along with the report of the initial response fulfills the requirements of CFR € 483.420(d)(3) which requires the thorough investigation of all allegations of improper conduct toward a consumer.

(b) Administrative Review Functions

The following activities may be conducted during the administrative review however they should never interfere with the investigation of the allegation of abuse, neglect or exploitation conducted by the state investigative agency.

- i. Collecting witness statements.
- ii. Interviewing witnesses.
- iii. Chronology of Events – This section shall include in paragraph form, the recreation of the events prior to, during, and following the incident of alleged abuse. It shall contain, to the extent possible, the names of the individuals, their action, and the time frame during which the alleged abuse occurred.
- iv. Discussion – This section will list all facts.
- v. Conclusion
- vi. Supporting Documents to be included:
 - o Signed and dated statements from each person involved
 - o Unusual Occurrence Form
 - o Photographs
 - o Officer of the Day Report
 - o Injury Report
 - o Other Documents, if needed during the Administrative Review, such as:
 - (a) Body check report
 - (b) Doctor/Nurse reports
 - (c) Work schedule
 - (d) Security report

(c) Reporting to DDSN

The ICF/MR administrative review must be completed and the results reported to DDSN, Director of Quality Management, within five (5) working days, excluding state and federal holidays of discovery of the suspected abuse, neglect or exploitation. (Attachment C).

The non ICF/MR administrative review, conducted for improper conduct toward a consumer, must be completed and the results reported to DDSN, Director of Quality Management, within ten (10) working days excluding state and federal holidays of discovery of the suspected abuse, neglect or exploitation (Attachment D).

If the outcome of the administrative review results in “no findings” meaning the employee did not violate a written rule, regulation or policy related to improper conduct toward a consumer, the provider may request, to DDSN Director of Quality Management, to reinstate the employee, with back pay, prior to the completion and/or receipt of the state investigative agency’s report. This request must be made on Request for Reinstatement of Employee Form (Attachment I). DDSN will review the request and inform the provider of the

results. If the employee is recommended for reinstatement the provider will send in the Addendum to Administrative/Management Review Report (Attachment F) to notify DDSN of its action.

- (ii). **Management Review** – Non ICF/MR providers will conduct a management review when the state investigative agency, actively investigates or refers the allegation to be investigated.

(a) Purpose

The purpose of the management review is to determine if a) an employee has violated a written rule, regulation or policy related to improper conduct toward a consumer and b) whether corrective actions regarding the employee (such as disciplinary action), management or practice/service changes need to occur.

(b) Management Review Functions

The following activities may be conducted during the management review however they should never interfere with the investigation of the allegation of abuse, neglect or exploitation conducted by the state investigative agency. During the Management Review process, which is conducted when DSS-CPS or local law enforcement accepts a case for investigation, reviewers are not permitted to interview the consumer or staff and can not collect witness statements. Staff can write a statement to share with the state investigative agency but staff can not share the information with providers during an active investigation.

- i. Chronology of Events – This section shall include in paragraph form, the recreation of the events prior to, during, and following the incident of alleged abuse. It shall contain, to the extent possible, the names of the individuals, their action, and the time frame during which the alleged abuse occurred.
- ii. Discussion – This section will list all facts.
- iii. Conclusion
- iv. Supporting Documents to be included:
 - o Unusual Occurrence Form
 - o Photographs
 - o Officer of the Day Reports
 - o Injury Reports

Other Documents, if needed during the Management Review, such as:

- (a) Body check report
- (b) Doctor/Nurse reports
- (c) Work schedule
- (d) Security report

(c) Reporting to DDSN

The management review must be completed and the results reported to DDSN, Director of Quality Management, within ten (10) working days, excluding state and federal holidays, in which the suspected abuse, neglect or exploitation are discovered (Attachment E).

If the outcome of the management review results in “no findings” meaning the employee did not violate a written rule, regulation or policy related to improper conduct toward a consumer, the provider may request, to DDSN Director of Quality Management, to reinstate the employee, with back pay, prior to the completion and/or receipt of the state investigative agency’s report. This request must be made on Request for Reinstatement of Employee Form (Attachment I). DDSN will review the request and inform the provider of the results. If the employee is recommended for reinstatement the provider will send in the Addendum to Administrative/Management Review Report (Attachment F) to notify DDSN of its action.

7. STEP SEVEN - CONFIDENTIALITY

The administrative/management review is an internal, confidential document and may not be released except to law enforcement and/or state investigative agencies. The report shall not be filed in the victim or alleged perpetrator/ employee’s file. The results of the review, including actions taken to ensure the victim’s safety, must be shared with the parent/guardian or primary correspondent. However, the review may not be released.

The Facility Administrator/ Executive Director/ CEO or their designee may share information from the review or a copy of the review with their staff on a need to know basis.

8. STEP EIGHT-OUTCOME OF THE EXTERNAL ABUSE INVESTIGATION AND/OR INTERNAL REVIEW

A. Investigation

Only the state investigative agency can substantiate or unsubstantiate abuse, neglect, or exploitation. Once written notification from the state investigative agency is received concerning the outcome of the investigation, the following action must be taken by the Facility Administrator/ Executive Director/ CEO or their designee:

(a) Founded/Substantiated, Perpetrator Known

Substantiated abuse, neglect, or exploitation will result in termination of the perpetrator, within 24 hours of receiving the results of the investigation.

In cases of financial exploitation by an employee, the Facility Administrator/ Executive Director/ CEO or their designee shall ensure that the victim’s misappropriated funds are reimbursed to the victim.

Under statutory authority, the South Carolina Department of Social Services maintains a statewide Central Registry of Child Abuse and Neglect. Initial reports of suspected child abuse and neglect reported to DSS will be entered in the registry. Indicated reports (i.e. founded), including the name of the perpetrator, will be maintained on the registry for seven years. State DSS has established due process procedures for appeal of indicated reports.

(b) Founded/Substantiated, Perpetrator Unknown

When the investigation determines that abuse, neglect, or exploitation occurred, but the perpetrator cannot be identified, the Facility Administrator/ Executive Director/ CEO or their designee shall ensure that the victim is safe and free from harm. Corrective/preventive action shall be taken to prevent a recurrence.

(c) Unfounded/Unsubstantiated

If the allegation is unsubstantiated, the alleged perpetrator will be reinstated without prejudice, including any back wages, unless the employee has violated the provider's rules, regulations or policies and the provider has followed its personnel policy of progressive discipline.

B. Administrative/Management Review

Once the administrative/management review is completed the following action must be taken by the Facility Administrator/ Executive Director/ CEO or their designee:

(a) Employee Violation of Rules, Regulations or Policies

If an employee has been found to have violated the provider's written rules, regulations or policies the provider must follow its personnel policy of disciplinary action.

(b) Staff Training/Policy Procedural Change

Staff training issues or policy procedural changes identified during the review shall be addressed to determine whether or not a violation of agency rules, regulations or policies is discovered. Training issues and/or policy procedural changes must be submitted to DDSN, Director Quality Management along with corrective action planned or taken to address the issues identified.

(c) Environmental Modifications

Issues regarding structural accommodations or safety devices identified during the review shall be addressed whether or not a violation of agency rules, regulations or policies is discovered. All changes identified to be made must be submitted to DDSN, Director Quality Management.

(d) Notification of Licensure/Certification Boards

DHEC, Division of Health Licensing shall be notified within ten (10) days of any suspected abuse, neglect, or exploitation occurring within a Habilitation Center (e.g. regional and community-based ICF/MRs, Community Residential Care Facilities, Hospitals and day care facilities for adults).

The appropriate state licensure or state accreditation board (e.g., State Board of Nursing, State Board of Medical Examiners, Long Term Care Nurse Aide Registry), will be notified in writing by the provider whenever an allegation of abuse, neglect, or exploitation, including failure to report, has been substantiated against a licensed/accredited employee. The employee may be subject to disciplinary action by the licensing/accreditation board.

(e) Addendum to Administrative/Management Review Report:

If the disposition of the Administrative/Management Review changes or if there is additional information after the review, (e.g., the results from external agency investigation/review are received or if upon approval from DDSN the employee is reinstated prior to the completion of a state investigative agency's final report), the Addendum to Administrative/Management Review Report (Attachment F) must be completed and sent to the Director, Division of Quality Management within 24 hours or the next business day of the change.

9. STEP NINE - EMPLOYEE GRIEVANCE APPEAL PROCEDURES

If an employee is reinstated during the Employee Grievance Appeal, an addendum must be completed stating the reason for reinstatement and sent to DDSN, Director of Quality Management.

REPORTING REQUIREMENTS CONTINUED:

B. Vulnerable Adults Age 18 and Above

1. STEP ONE – Make a Direct Report to the Appropriate State Investigative Authority (Attachment A)

Employees and volunteers of DDSN or its contracted service providers are mandated to report directly to the appropriate state investigative agency, immediately but no later than 24 hours, except as noted below, when they have reason to believe that a vulnerable adult has been or is at risk for abuse, neglect, or exploitation.

If anyone other than an employee or volunteer of DDSN or its contracted service providers makes a direct report to the appropriate state investigative agency the Facility Administrator/Executive Director/CEO or higher authority, once notified, must immediately initiate activities beginning at STEP 3. The alleged perpetrator must immediately be placed on administrative leave without pay and the initial report must be sent to DDSN, Director of Quality Management within 24 hours or the next business day.

NOTE: In cases of an emergency, serious injury, or suspected sexual assault, the victim's health and welfare takes priority to STEP ONE. If medical attention is needed, the reporter must call 911 prior to calling SLED or DSS. Serious is defined as "needing immediate medical attention or hospitalization." Once 911 is contacted the person making the report must contact SLED or DSS immediately.

Serious consumer injuries of unknown or unexplainable origin must be reported to the state investigative agency according to the procedures outlined herein.

- **SLED-Special Victims Unit**

Alleged abuse, neglect, or exploitation occurring to a vulnerable adult in any residential program operated by or contracted for operation by DDSN shall be reported to SLED's toll free number by the person who has actual knowledge or reason to believe that a vulnerable adult has been or is likely to be abused, neglected, or exploited. In these facilities, staff is required to report immediately, but no later than the end of the reporter's shift.

- **DSS - Adult Protective Services – County Offices**

Alleged abuse, neglect, or exploitation occurring to a vulnerable adult in settings other than a home operated or contracted for operation by DDSN shall be reported to the Department of Social Services in the county where the alleged incident occurred. This includes suspected abuse that may have occurred while a person is living at home or on a home visit. Reports of suspected abuse in locations other than those defined above are not required to be reported to DDSN. The report and final outcome must be documented in the vulnerable adult's and appropriate agency files.

- **Local Law enforcement**

In addition to reporting to DSS-APS, local law enforcement must be notified immediately when the following conditions apply (note, if report is made to SLED, local law enforcement does not need to be contacted by the provider).

- (a) All sexual assaults between consumers and staff, volunteers, or other persons responsible for their care.
- (b) There is serious physical injury (such as fractures, burns, serious lacerations, death, etc.) and there is reason to believe the injury was caused by possible abuse or neglect, or when a physician documents that the injury was due to abuse or neglect.
- (c) There are multiple victims.
- (d) Serious abuse, neglect, or exploitation occurred and there is a cover up or failure to report when clearly an obligation existed to report.
- (e) Intimidation of the victim or witness, or impediment to an investigation.
- (f) Time sensitive evidence.

(g) When the victim or victim's family requests a referral to law enforcement.

2. STEP TWO – REPORT TO SUPERVISOR OR HIGHER AUTHORITY

After the required report by phone is made, the person making the report must make a report immediately to his/her supervisor or Facility Administrator/Executive Director/CEO. Immediately means within one hour. The person making the report must assure the alleged victim is safe.

3. STEP THREE – INITIAL RESPONSE

Once the supervisor, Facility Administrator/Executive Director/CEO or higher authority is notified, the following actions must be initiated when the allegation of abuse occurs in a residential or other facility operated or contracted for operation by DDSN:

Initial Response is the initial brief immediate action taken by the first response person who is called to the scene of the alleged abuse, neglect, or exploitation and should be conducted concurrently with the reporting requirements. Because of the seriousness of any allegation of abuse, neglect, or exploitation, the first response person is usually a supervisory/administrative level staff person. This decision is made by the supervisor in STEP 2.

The focus of the initial response is to ensure: (1) the victim is safe (2) needed medical treatment is sought, (3) evidence is preserved and (4) the victim, witnesses, and alleged perpetrator(s) are identified.

(a) Safety Plan

Ensure the victim is safe, free from harm and intimidation.

- i. An assessment should be made as to the safety of the victim and others who may be at risk.
- ii. The alleged perpetrator must be separated from the victim.
- iii. The alleged perpetrator must be placed on administrative leave without pay pending the outcome of the investigation.

(b) Determine if alleged victim requires medical assistance

- i. The alleged victim should be taken/referred for a medical exam if needed. Talk with the victim/assess degree of injury, functional level, etc.

(c) Secure the scene - Preserve Evidence

- i. The scene should be secured if there is physical evidence of a disturbance or crime, e.g., overturned chairs, blood on floor, evidence of sexual assaults, etc.

For Administrative Review purposes only, the Receipt for Property (Attachment G) should be completed.

(d) Identify Victim, Witnesses, and Perpetrator

- i. Identify victim, alleged perpetrator and all potential witnesses. It is essential to identify all potential witnesses, including people receiving services, employees, volunteers, or others who may have information.

4. STEP FOUR – NOTIFICATION

The parent/guardian or primary correspondent will be notified of the allegation of abuse as soon as possible (i.e. as soon as the provider agency can assure the alleged victim's health or safety) based on the contact information in the consumer's plan. At least annually the consumer, with input from those important to him/her, will specify who will be contacted should an allegation occur. This information will be documented and readily available in the consumer's file. The parent/guardian or primary correspondent will be informed of any injuries as well as action taken to ensure the consumer's safety. There may be situations in which family members of other residents may need to be contacted regarding concern for their own family member's status and safety. The circumstances requiring contact would be specified in the annual service plan.

The parent/guardian or primary correspondent will be informed of their right to contact the state investigative agency if they have any questions or concerns.

Note: The state investigative agencies may contact the alleged victim's parent/guardian or primary correspondent directly.

5. STEP FIVE – INITIAL WRITTEN REPORT

A written report of the allegation must be sent to DDSN, Director of Quality Management and SLED within 24 hours or the next business day in which the suspected abuse, neglect or exploitation is discovered using the Initial Report of Alleged Abuse, Neglect or Exploitation (Attachment B).

6. STEP SIX – INITIATE A REVIEW OF THE ALLEGATION

Regional Centers, DSN Boards and contracted service providers shall cooperate with external investigations to insure the administrative/management review does not jeopardize the investigation by law enforcement or the state investigative agency.

A. Application of Review

An Administrative or Management Review should be done when the following conditions apply:

- **Administrative Review** – An ICF/MR (community or Regional Center) resident is allegedly abused, including when resident is at a day program.

- **Management Review** – (1) An alleged abuse occurs while consumer resides in any other homes operated or contracted for operation by DDSN or (2) an alleged abuse occurs while consumer is under supervision of agency employee or contracted employee, to include day services, rehabilitation supports, companion, etc.

While conducting an Administrative or Management Review, system-oriented information that warrants further review may be received. The recommendation for such review along with recommendation for personnel action (e.g., staff training, reassignments, environmental modifications, procedural changes, etc.) and any other recommendations should be noted.

Any risk situations should be identified and appropriate action taken. If negligent situations are identified through the review process, this should be brought to the immediate attention of the Facility Administrator/ Executive Director/ CEO or their designee for prompt corrective/preventive action.

B. Types of Reviews

(i). Administrative Review

Regional Centers and ICF/MR providers must conduct an administrative review immediately upon receiving an allegation of abuse, neglect, or exploitation. (Attachment C).

For non ICF/MR facilities/consumers the provider is permitted to conduct an Administrative Review for Improper Conduct towards a consumer (Attachment D) upon receiving the SLED intake form which indicates the case has been vetted to the Ombudsman or DSS-APS. Once the review is complete providers may take appropriate personnel action as policies dictate, including bringing the employee back to work if the review did not indicate improper conduct.

(a) Purpose

The administrative review is the systematic review of all information, witness statements, and evidence related to the allegation in order to make a determination, based on facts, if a) an employee has violated a written rule, regulation or policy related to improper conduct toward a consumer and b) what actions management might take in order to reduce the likelihood that abuse would occur in the future.

The administrative review will be completed by a person assigned by the Facility Administrator/ Executive Director/ CEO. The assigned staff member will determine if an employee has violated any written rule, regulation or policy related to improper conduct toward consumer. When the credible, relevant facts support violation of the provider's written rules, regulations or policies related to improper conduct toward a consumer the provider will follow its personnel policy of disciplinary action.

The administrative review along with the report of the initial response (STEP 3) fulfills the requirements of CFR € 483.420(d) (3) which requires the thorough investigation of all allegations of improper conduct toward a consumer.

(b) Administrative Review Functions

The following activities may be conducted during the administrative review however they should never interfere with the investigation of the allegation of abuse, neglect or exploitation conducted by the state investigative agency.

- i. Collecting witness statements.
- ii. Interviewing witness
- iii. Chronology of Events – This section shall include in paragraph form, the recreation of the events prior to, during, and following the incident of alleged abuse. It shall contain, to the extent possible, the names of the individuals, their action, and the time frame during which the alleged abuse occurred.
- iv. Discussion – This section will list all facts.
- v. Conclusion
- vi. Supporting Documents to be included:
 - o Signed and dated statements from each person involved
 - o Unusual Occurrence Form
 - o Photographs
 - o Officer of the Day Reports
 - o Injury of the Report
 - o Other Documents, if needed during the Administrative Review, such as:
 - (a) Body check report
 - (b) Doctor/nurse reports
 - (c) Work schedule
 - (d) Security report

(c) Reporting to DDSN

The ICF/MR administrative review conducted by Regional Center and ICF/MR must be completed and the results reported to DDSN, Director of Quality Management, within five (5) working days, excluding state and federal holidays, of discovery of the suspected abuse, neglect or exploitation. (Attachment C).

The administrative review conducted for improper conduct toward a consumer must be completed and the results reported to DDSN, Director of Quality Management, within ten (10) working days excluding state and federal holidays (Attachment D).

If the outcome of the administrative review results in “no findings” meaning the employee did not violate a written rule, regulation or policy related to improper conduct toward a consumer, the provider may request, to DDSN Director of Quality Management, to reinstate the employee, with back pay, prior to the completion and/or receipt of the state investigative agency’s report. This request

must be made on Request for Reinstatement of Employee Form (Attachment I). DDSN will review the request and inform the provider of the results. If the employee is recommended for reinstatement the provider will send in the Addendum to Administrative/Management Review Report (Attachment F) to notify DDSN of its action.

- (ii). Management Review – Non ICF/MR providers will conduct a management review when the state investigative agency actively investigates or refers the allegation to be investigated

(a) Purpose

The purpose of the management review is to determine if a) an employee has violated a written rule, regulation or policy related to improper conduct toward a consumer and b) whether corrective actions regarding the employee (such as disciplinary action), management or practice/service changes need to occur.

(b) Management Review Functions

The following activities may be conducted during the management review however they should never interfere with the investigation of the allegation of abuse, neglect or exploitation by the state investigative agency. During the Management Review process, which is conducted when SLED or local law enforcement accepts a case for investigation, reviewers are not permitted to interview the consumer or staff and can not collect witness statements. Staff can write a statement to share with the state investigative agency but can not share the information with providers during an active investigation.

- i. Chronology of Events – This section shall include in paragraph form, the recreation of the events prior to, during, and following the incident of alleged abuse. It shall contain, to the extent possible, the names of the individuals, their action, and the time frame during which the alleged abuse occurred.
- ii. Discussion – This section will list all facts.
- iii. Conclusion
- iv. Supporting Documents to be included:
 - o Unusual Occurrence Form
 - o Photographs
 - o Officer of the Day Report
 - o Injury Reports
 - o Other Documents, if needed during the Management Review, such as:
 - (a) Body check report
 - (b) Doctor/Nurse reports
 - (c) Work schedule
 - (d) Security report

(c) Reporting to DDSN

The management review must be completed and the results reported to DDSN, Director of Quality Management, within ten (10) working days, excluding state and federal holidays, in which the suspected abuse, neglect or exploitation is discovered (Attachment E).

If the outcome of the management review results in “no findings” meaning the employee did not violate a written rule, regulation or policy related to improper conduct toward a consumer, the provider may request, to DDSN Director of Quality Management, to reinstate the employee, with back pay, prior to the completion and/or receipt of the state investigative agency’s report. This request must be made on Request for Reinstatement of Employee Form (Attachment I). DDSN will review the request and inform the provider of the results. If the employee is recommended for reinstatement the provider will send in the Addendum to Administrative/Management Review Report (Attachment F) to notify DDSN of its action.

7. STEP SEVEN – CONFIDENTIALITY

The administrative/management review is an internal, confidential document and may not be released except to law enforcement and/or state investigative agencies. The report shall not be filed in the victim or alleged perpetrator/ employee’s file.

The results of the review, including actions taken to ensure the victim’s safety, must be shared with the parent/guardian or primary correspondent. However, the review may not be released.

The Facility Administrator/ Executive Director/ CEO or their designee may share information from the review or a copy of the review with their staff on a need to know basis.

8. STEP EIGHT – Outcome of the External Investigation and/or Internal Review

A. Investigation

Only the state investigative agency can substantiate or unsubstantiate abuse, neglect, or exploitation. Once written notification from the state investigative agency is received concerning the outcome of the investigation, the following action must be taken by the Facility Administrator/ Executive Director/ CEO or their designee:

(a) Founded/Substantiated, Perpetrator Known

Substantiated abuse, neglect, or exploitation will result in termination of the perpetrator, within 24 hours of receiving the results of the investigation.

In cases of financial exploitation by an employee, the Facility Administrator/ Executive Director/ CEO or their designee shall ensure that the victim’s misappropriated funds are reimbursed to the victim.

(b) Founded/Substantiated, Perpetrator Unknown

When the investigation determines that abuse, neglect, or exploitation occurred, but the perpetrator cannot be identified, the Facility Administrator/ Executive Director/ CEO or their designee shall ensure that the victim is safe and free from harm. Corrective/preventive action shall be taken to prevent a recurrence.

(c) Unfounded/Unsubstantiated

If the allegation is unsubstantiated, the alleged perpetrator will be reinstated without prejudice, including any back wages, unless the employee has violated the provider's rules, regulations or policies and the provider has followed its personnel policy of progressive discipline.

B. Administrative/Management Review

Once the administrative/management review is completed the following action must be taken by the Facility Administrator/Executive Director/CEO or their designee.

(a) Employee Violation of Rules, Regulations or Policies

If an employee has been found to have violated the provider's written rules, regulations or policies the provider must follow its personnel policy of disciplinary action.

(b) Staff Training/Policy Procedural Change

Staff training issues or policy procedural changes identified during the review shall be addressed whether or not a violation of agency rules, regulations or policies is discovered. Training issues and/or policy procedural changes must be submitted to DDSN, Director Quality Management along with corrective action planned or taken to address the issues identified.

(c) Environmental Modifications

Issues regarding structural accommodations or safety devices identified during the review shall be addressed whether or not a violation of agency rules, regulations or policies is discovered. All changes identified to be made must be submitted to DDSN, Director Quality Management.

(d) Notification of Licensure/Certification Boards

DHEC, Division of Health Licensing shall be notified within ten (10) days of any suspected abuse, neglect, or exploitation occurring within a Habilitation Center (e.g. regional and community-based ICF/MRs, Community Residential Care Facilities, Hospitals and day care facilities for adults).

The appropriate state licensure or state accreditation board (e.g., State Board of Nursing, State Board of Medical Examiners, Long Term Care Nurse Aide Registry), will be notified in writing by the provider whenever an allegation of abuse, neglect, or exploitation, including failure to report, has been substantiated

against a licensed/accredited employee. The employee may be subject to disciplinary action by the licensing/accreditation board.

(e) Addendum to Administrative/Management Review Report

If the disposition of the Administrative/Management Review changes or if there is additional information after the review, (e.g., the results from external agency investigation/review are received or if upon approval from DDSN the employee is reinstated prior to the completion of a state investigative agency's final report), the Addendum to Administrative/Management Review Report (Attachment F) must be completed and sent to the Director, Division of Quality Management within 24 hours or the next business day of the change.

9. STEP NINE - EMPLOYEE GRIEVANCE APPEAL PROCEDURES

If an employee is reinstated during the Employee Grievance Appeal, an addendum must be completed stating the reason for reinstatement and sent to DDSN, Director of Quality Management.

VI. MISCELLANEOUS INFORMATION

Provider agencies will assure that the person's Service Coordinator/QMRP/Early Interventionist is aware of the allegation and is informed of the investigative findings. The Service Coordinator/QMRP/EI will monitor to make sure that adequate services and supports recommended are in place to prevent future occurrences of abuse, neglect, or exploitation.

Human Rights Committee

The agency's Human Rights Committee shall be notified at the next regularly scheduled meeting of all allegations of abuse, neglect, or exploitation and the results of the state investigative agency.

Legal Action

If legal pleadings are served which resulted from an incident of abuse, neglect, or exploitation, the Facility Administrator/ Executive Director/ CEO or their designee shall notify the DDSN Associate State Director of Operations and DDSN Legal Counsel immediately.

Media Inquiries

In situations where media attention has been generated about an incident of abuse, neglect, or exploitation, the DDSN and provider agencies should cooperate with providing information as required under the Freedom of Information Act. Consistent with the provisions of South Carolina Law and Health Insurance Portability and Accountability Act,

The Facility Administrator/ Executive Director/ CEO or their designee must notify DDSN Associate State Director of Operations when media attention is generated about an incident of abuse, neglect, or exploitation.

The Director of Community Education is available to provide assistance to DDSN and contract provider agencies in responding to media inquiries.

VII. OTHER INVESTIGATIVE AGENCIES

DDSN and contract provider agencies shall cooperate with external investigations.

In addition to investigations by SLED, State Long Term Care Ombudsman, DSS, and law enforcement, other agencies have jurisdiction to make inquiry into incidents of abuse, neglect, or exploitation and may conduct their own investigation. These agencies include but are not limited to:

Child Fatalities Review Office

The Child Fatalities Review Office of the State Law Enforcement Division will investigate all deaths involving abuse, physical and sexual trauma as well as suspicious and questionable deaths of children. The State Child Fatalities Review Office will also review the involvement that various agencies may have had with the child prior to death. DDSN is an active member of this committee.

Vulnerable Adult Fatalities Review Office

The Vulnerable Adult Fatalities Review Office of the State Law Enforcement Division will investigate all deaths involving a vulnerable adult in any residential program operated or contracted for operation by DDSN. DDSN is an active member of this committee.

Attorney General - Office of Medicaid Fraud

The Medicaid Fraud Division of the State Attorney General's Office may also investigate allegations of financial exploitation in Medicaid facilities and programs.

Protection and Advocacy for People with Disabilities, Inc.

Protection and Advocacy for People with Disabilities (P&A) has statutory authority to investigate abuse and neglect of people with disabilities.

VIII. QUALITY ASSURANCE

In order to effect and/or maintain a comprehensive system to ensure the timely reporting, as well as preventive/corrective actions, DDSN shall implement and evaluate its quality assurance program which monitors all allegations of abuse, neglect, or exploitation and other violations of rules, regulations or policies occurring in DDSN operated services and supports, Regional Centers, and contract provider agencies.

Kathi K. Lacy, Ph.D.
Associate State Director
Policy
(Originator)

Stanley J. Butkus, Ph.D.
State Director
(Approved)

Related Directives:

<u>100-09-DD</u>	<u>Critical Incident Reporting</u>
<u>100-28-DD</u>	<u>Quality Assurance and Management</u>
<u>413-01-DD</u>	<u>Standards of Disciplinary Action</u>
<u>505-02-DD</u>	<u>Death or Impending Death of Person Residing in a Residential Program Sponsored by DDSN</u>
<u>533-02-DD</u>	<u>Sexual Assault Prevention, and Incident Procedure Follow-up</u>

Attachments:

- A - [Reporting Allegations of Abuse, Neglect or Exploitation](#)
- B - [Initial Report of Alleged Abuse, Neglect or Exploitation](#)
- C - [Administrative Review of Alleged Abuse, Neglect or Exploitation – ICF/MR
Facilities](#)
- D - [Administrative Review for Improper Conduct Toward Consumer](#)
- E - [Management Review for Improper Conduct Toward Consumer](#)
- F - [Addendum to Management/Administrative Review Report](#)
- G - [Receipt of Property](#)
- H - [SCDDSN Acknowledgement of Training on Preventing and Reporting Abuse,
Neglect or Exploitation](#)
- I - [Request for Reinstatement of Employee](#)
- J - [Decision – making flow chart for type of review provider may undertake for an
adult consumer \(18+\) and when a reinstatement of an employee may be requested
to DDSN](#)
- K - [Same as above but change for a minor consumer \(< 17\)](#)